

Judge Blocks Hill Wiretap Probe

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U.S. District Court Judge Oliver Gasch ordered the American Telephone & Telegraph Co. yesterday to withhold from Congress, at least temporarily, the company's records of the federal government's requests for "national security" wiretaps.

The ruling was a victory for President Ford, who earlier yesterday personally ordered the Justice Department to "undertake such action in the courts . . . as may be appropriate to prevent the disclosure of this sensitive information."

Mr. Ford's claim of executive privilege, or right of secrecy, on the material was only the second such formal assertion by a President in an attempt to withhold information from a congressional investigating committee, the Justice Department said. In the first instance, the U.S. Court of Appeals here upheld in 1974 former President Nixon's privilege claim in withholding his White House tapes from the Senate Watergate Committee.

The House Oversight and Investigations subcommittee had subpoenaed the documents, which were scheduled to be turned over by 10 a.m. today. The subpoena, issued in a closed session last month, had prompted numerous meetings and negotiations between the Ford administration and subcommittee lawyers in an attempt to limit the panel's access to the requested materials.

When those negotiations failed, the Justice Department filed suit yesterday to block AT&T from turning over the material.

Subcommittee attorney Michael Lemov told Gasch that his ruling "would not bind Congress from exercising its legislative powers" and accused Gasch of "improperly intruding into what is essentially a political quarrel."

Lemov said in a later interview that Gasch's ruling prompts a "constitutional

confrontation," and that he expects AT&T to appear today with the requested documents. "I have great questions about a judge's authority—one judge, unelected—to control Congress," Lemov said.

AT&T attorney John Fox, who attended the hearings, said he would advise his company to show up as scheduled for today's closed subcommittee session but to refuse to turn over the materials. He said the company is bound by Gasch's order.

In opposing the subpoena, the Justice Department filed lengthy pleadings with the court in which President Ford asserted executive privilege

against disclosing the documents to Congress.

The department filed affidavits saying disclosure "would reveal the identity of every foreign power, agent of a foreign power or entity which is, or has been, the subject of our intelligence interests."

In another affidavit, CIA Director George Bush said "intelligence sources and methods of the greatest sensitivity will be compromised and specific targets of U.S. foreign intelligence collection efforts will be identified" if the documents are disclosed.

Also released was a letter sent yesterday by President Ford to Subcommittee Chairman John Moss (D-Calif.) saying, "I have determined that compliance with the subpoena would involve unacceptable risks of disclosure of

extremely sensitive foreign intelligence and counterintelligence information and would be detrimental to the national defense and foreign policy of the United States and damaging to the national security."

The President made similar statements in letters instructing AT&T to refuse to turn over the materials, and in a memo to the Justice Department authorizing it to file the suit yesterday.

The documents at issue are from the FBI director, asking the telephone company to provide special leased lines or other technical assistance "at the usual commercial rates" for national security surveillance.

The requests revealed the specific location, individual or telephone number for

which a tap was requested and also specified the location of the FBI station that would be monitoring the taps.

An FBI affidavit said there were 141 national security tap requests in 1975, an increase from an average of about 70 in 1970-'73. No explanation was given for the increase.

Subcommittee attorney Lemov argued that Gasch's order was unnecessary because the panel had promised to maintain strict security over the documents.

Gasch referred to leaks of materials by other congressional committees and said, "We haven't had a very good history with that, have we?"

Gasch scheduled a full hearing on the issue for next Wednesday at 10 a.m.